



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

August 1, 1988

Honorable David H. Cain  
Committee on Transportation  
Texas House of Representatives  
P. O. Box 2910  
Austin, Texas 78769

LO-88-90

Dear Representative Cain:

You ask several questions about the interpretation of article 6687-9b, which deals with registration of tow trucks. Section 2 of article 6687-9b provides that a person may not "operate a tow truck for compensation in this state unless the tow truck is registered with the [D]epartment [of Labor and Standards]." You ask about the meaning of the phrase "for compensation." Specifically, you ask:

1. Automobile dealers regularly use their own tow trucks to tow vehicles that are being repossessed. Do these tow trucks need to be registered?

2. An automobile dealer may tow a vehicle held in his inventory from the point of purchase to his lot, from his lot to a repair facility, or from a storage lot where the vehicle has been impounded to his own lot. Do these tow trucks need to be registered?

3. Some automobile dealers will tow a customer's vehicle from the point of a mechanical breakdown to the dealer's lot or to a repair facility at no charge to the customer. Do these tow trucks need to be registered?

Article 6687-9b provides no definition of the phrase "for compensation." There are several possible interpretations of that phrase. The registration requirement could be limited to tow trucks that are for hire. In other words, the registration requirement could be interpreted to apply

when compensation is paid for the use of the tow truck. On the other hand, the provision could be read more broadly to mean that a tow truck is subject to the registration requirement if compensation is paid either for the driver's services or for the services of the truck itself.

The bill analysis to article 6687-9b provides:

BACKGROUND INFORMATION

The Railroad Commission (RRC) has some regulatory authority over the towing industry. Article 911b<sup>1</sup> delegates regulation to RRC of all commodity transport (including vehicles) between two incorporated cities by for-hire vehicles. Section 1-1/4 of Art. 911b exempts from registration tow trucks used to haul vehicles to be wrecked, repaired or stored. These exemptions may allow as much as 80 percent of the companies to escape regulation.

No state registration is required of all towing vehicles. Municipalities register tow trucks operating within their boundaries. In some metropolitan areas, tow truck owners are required to have registrations in several municipalities.

PURPOSE

The purpose of the bill is to bring tow trucks under regulation and to relieve metropolitan tow truck owners of burdensome municipal requirements.

The statement of purpose in the bill analysis indicates that the regulation was intended to apply broadly. Also, the duties imposed on the Department of Labor and Standards

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1. The reference to article 911b in the bill analysis to article 6687-9b is instructive if only because it leads to an examination of article 911b. The provisions of article 911b demonstrate the detail that is necessary in order to identify with precision the types of vehicles that are subject to a certain type of regulation.

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in regard to the „regulation of tow trucks have to do with protection of the public:

The department shall adopt rules regarding only the minimum insurance requirements for the operation of tow trucks and minimum safety standards regarding the operation of tow trucks.

V.T.C.S. art. 6687-9b, § 3(a). We think the legislature would have intended such requirements to apply as broadly as possible. Therefore, we conclude that the registration requirement applies to a tow truck if an operator is paid for operating the tow truck or if someone pays for the services of the truck itself. Whether such payment is in fact made in the situations you ask about is a question of fact. We note, however, that the registration requirement applies to a truck if it is ever operated for compensation. Therefore, the fact that not all uses of a particular tow truck are for compensation would not remove the truck from the registration requirement.

Very truly yours,



Sarah Woelk  
Assistant Attorney General  
Opinion Committee

SW/bc

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